

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF SOUTH CAROLINA

Johnny Allen

\_\_\_\_ Plaintiff \_\_\_\_\_

*(Write the full name of each plaintiff who is filing this complaint. If the names of all the plaintiffs cannot fit in the space above, please write "see attached" in the space and attach an additional page with the full list of names.)*

**-against-**

**Denis McDonough, Secretary, U.S. Department**

**of Veterans Affairs** \_\_\_\_\_

\_\_\_\_ Defendant \_\_\_\_\_

*(Write the full name of each defendant who is being sued. If the names of all the defendants cannot fit in the space above, please write "see attached" in the space and attach an additional page with the full list of names.)*

**Complaint for Employment  
Discrimination**

Case No. \_\_\_\_\_  
(to be filled in by the Clerk's Office)

Jury Trial: ☒ Yes ☐ No  
(check one)

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**I. The Parties to This Complaint**

**A. The Plaintiff(s)**

Provide the information below for each plaintiff named in the complaint. Attach additional pages if needed.

Name \_\_\_\_\_ Johnny

Allen \_\_\_\_\_

Street Address \_\_\_\_\_ 212 \_\_\_\_\_ Transom  
 Court \_\_\_\_\_  
 City \_\_\_\_\_ and \_\_\_\_\_ County  
 \_\_\_\_\_ Gaston \_\_\_\_\_  
 \_\_\_\_\_  
 State and Zip Code \_\_\_\_\_ South  
 Carolina \_\_\_\_\_ 29053 \_\_\_\_\_  
 Telephone Number \_\_\_\_\_ 803- \_\_\_\_\_ 261-  
 2268 \_\_\_\_\_

**B. The Defendant(s)**

Provide the information below for each defendant named in the complaint, whether the defendant is an individual, a government agency, an organization, or a corporation. For an individual defendant, include the person's job or title (if known). Attach additional pages if needed.

Defendant No. 1

Name \_\_\_\_\_ Denis \_\_\_\_\_ Richard  
 McDonough \_\_\_\_\_  
 Job or Title \_\_\_\_\_ Secretary of the Department of Veteran  
 Affairs \_\_\_\_\_ (if known)  
 Street Address \_\_\_\_\_  
 City and County \_\_\_\_\_  
 State and Zip Code \_\_\_\_\_  
 Telephone Number \_\_\_\_\_

Defendant No. 2

Name \_\_\_\_\_  
 Job or Title \_\_\_\_\_  
 (if known) \_\_\_\_\_  
 Street Address \_\_\_\_\_  
 City and County \_\_\_\_\_  
 State and Zip Code \_\_\_\_\_  
 Telephone Number \_\_\_\_\_

Defendant No. 3

Name \_\_\_\_\_

Job or Title \_\_\_\_\_  
 (if known)  
 Street Address \_\_\_\_\_  
 City and County \_\_\_\_\_  
 State and Zip Code \_\_\_\_\_  
 Telephone Number \_\_\_\_\_

Defendant No. 4

Name \_\_\_\_\_  
 Job or Title \_\_\_\_\_  
 (if known)  
 Street Address \_\_\_\_\_  
 City and County \_\_\_\_\_  
 State and Zip Code \_\_\_\_\_  
 Telephone Number \_\_\_\_\_

**C. Place of Employment**

The address at which I sought employment or was employed by the defendant(s) is:

Name \_\_\_\_\_  
 Street Address \_\_\_\_\_  
 City and County \_\_\_\_\_  
 State and Zip Code \_\_\_\_\_  
 Telephone Number \_\_\_\_\_

**II. Basis for Jurisdiction**

This action is brought for discrimination in employment pursuant to *(check all that apply)*:

- ☒ Title VII of the Civil Rights Act of 1964, as codified, 42 U.S.C. §§ 2000e to 2000e-17 (race, color, gender, religion, national origin).

*(Note: In order to bring suit in federal district court under Title VII, you must first obtain a Notice of Right to Sue letter from the Equal Employment Opportunity Commission.)*

- ☒ Age Discrimination in Employment Act of 1967, as codified, 29 U.S.C. §§ 621 to 634.

*(Note: In order to bring suit in federal district court under the Age Discrimination in Employment Act, you must first file a charge with the Equal Employment Opportunity Commission.)*

- ☐ Americans with Disabilities Act of 1990, as codified, 42 U.S.C. §§ 12112 to 12117.

*(Note: In order to bring suit in federal district court under the Americans with Disabilities Act, you must first obtain a Notice of Right to Sue letter from the Equal Employment Opportunity Commission.)*

- ☐ Other federal law (specify the federal law):

- ☐ Relevant state law (specify, if known):

- ☐ Relevant city or county law (specify, if known):

### III. Statement of Claim

Write a short and plain statement of the claim. Do not make legal arguments. State as briefly as possible the facts showing that each plaintiff is entitled to the damages or other relief sought. State how each defendant was involved and what each defendant did that caused the plaintiff harm or violated the plaintiff's rights, including the dates and places of that involvement or conduct. If more than one claim is asserted, number each claim and write a short and plain statement of each claim in a separate paragraph. Attach additional pages if needed.

- A. The discriminatory conduct of which I complain in this action includes *(check all that apply)*:

Failure to hire me.

- ☐ Termination of my employment.

x Failure to promote me.

- ☐ Failure to accommodate my disability.

x Unequal terms and conditions of my employment.

x Retaliation.

- ☐ Other acts (specify): \_\_\_\_\_

*(Note: Only those grounds raised in the charge filed with the Equal*

*Employment Opportunity Commission can be considered by the federal district court under the federal employment discrimination statutes.)*

B. It is my best recollection that the alleged discriminatory acts occurred on date(s)

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C. I believe that defendant(s) *(check one)*:

- ☒ is/are still committing these acts against Me.  
☐ is/are not still committing these acts against me.

D. Defendant(s) discriminated against me based on my *(check all that apply and explain)*:

- ☒ race \_\_\_ Native American \_\_\_\_\_  
☐ color \_\_\_\_\_  
☒ gender Male \_\_\_\_\_  
☐ religion \_\_\_\_\_  
☐ national origin \_\_\_\_\_  
☒ age. My year of birth is \_\_\_ 1956 \_\_\_\_\_. *(Give your year of birth only if you are asserting a claim of age discrimination.)*  
☐ disability or perceived disability *(specify disability)*

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E. The facts of my case are as follows. Attach additional pages if needed.

### **Background**

I am a 65-year-old, Native American Male I am proud of my Native American Heritage. I have been employed with the VA system for over 40 years and is a service-connected Veteran who is

currently employed as a Recreational Therapist at the Dorn VA Medical Center in Columbia SC. and I have participated in have shared my protected class with my VA family during public displays

in the lobby. I would wear my Native American Tribal Colors and necklaces. There is no secret that I have a known relationship with my Native American Heritage. I am the only male and

I am

much older than my co-worker. I had been a Unionist dedicated to assisting all employees all non-managerial and supervisor employees with labor concerns. In 2020, there were executive orders that

mandated unionist returns to their job duties. During that period, while working under the direct supervision of my first line supervisor when I received acts of continuous bullying, intimidation and

threatening.

Claims: **Race**-Native American    **Gender**-Male,    **Non Sexual-** Male  
**Age**-65

I have established a *prima facie* case of discrimination when I have provided the material evidence that I was treated less favorable than my co-worker at the in-patient mental health unit of Dorn VA in Columbia SC. My co-worker is similar situated with my first line supervisor. My co-worker and the first line supervisor are both Psychologist, female, Caucasian race, and they are either in their late 30s or mid-40s. My co-worker would always report my whereabouts to my supervisor and my work was severely scrutinized by my first line supervisor daily. Both my first line supervisor and my co-worker created a hostile work environment by threatening, intimidating, bullying, and questioning my ability to perform

my duties as an inpatient mental health recreational assistant. I love my job because I can relate to the Veterans and I am proud to provide a service to the Veterans when they are admitted to Dorn VA for mental health concerns.

**Claims Retaliation- Disparate Impact, Disparate Treatment Prior EEO Activity**

In addition to my 40 years plus as an employee, I also have been an active Unionist and was a prior EEO Complainant and have participated as a witness in numerous EEO cases. The Agency has allowed my supervisor to retaliate by means of disparate impact and disparate treatment. I did not one day wake up and decided he no longer wanted to serve his country, the Agency became the enforcers of this adverse treatment and use their own government Agencies to uphold their unusual and unlawfully treatment. The Agency has ignored the process of 29 CFR 1614. The laws are created to provide a better place for all but the Agency will develop a smokescreen when they are observed committing unlawful and discriminator acts. I do understand that the burden of proof is on me once I have alleged discrimination, but I cannot dispute facts such as when all Recreational Therapist were rewarded an increase in a pay grade and increase in salary, I was denied the increase. It was a national increase documented in the VA handbook; it was published in June 2019 by the VA Human Resource Department. I was denied



and still am denied my promotion. My supervisor and my co-worker both have received the increase in pay grade and salary, this is retaliation at its finest. I have exhausted all means with the EEOC which has turned a blind eye to the facts of the case. I am a small person, just one, trying to adjudicate myself against a large powerful Agency. An Agency that was created to help the Veterans and family members who have fought to preserve our Freedom. The retaliation continued with a charge of AWOL and I was denied leave. The Agency will state that I was instructed to find someone to cover me, but the other co-worker is a younger female mental health psychologist, same as my first line supervisor. I am the only inpatient mental Recreational Therapist who just happens to be a Native American Male, 25 years older, a Master Licensed Recreational Therapist, a Unionist who has participated in prior EEO activity. I am also the Safety Officer for the Union and has contacted OSHA to investigate any violations I find at the Dorn facility that are unsafe for the Veterans and all employees. I know this is does not fit the description of a protected class or protected activity but this certainly adds to my reason that the Agency retaliate against me.

*(Note: As additional support for the facts of your claim, you may attach to this complaint a copy of your charge filed with the Equal Employment Opportunity Commission, or the charge filed with the relevant state or city human rights division.)*



**IV. Exhaustion of Federal Administrative Remedies**

- A. It is my best recollection that I filed a charge with the Equal Employment Opportunity Commission or my Equal Employment Opportunity counselor regarding the defendant's alleged discriminatory conduct on *(date)*

\_\_\_ March 20,  
2023 \_\_\_\_\_

- B. The Equal Employment Opportunity Commission *(check one)*:

- ☐ has not issued a Notice of Right to Sue letter.  
☒ issued a Notice of Right to Sue letter, which I received on *(date)*  
 \_\_\_ March 20, 2023

\_\_\_\_\_  
*(Note: Attach a copy of the Notice of Right to Sue letter from the Equal Employment Opportunity Commission to this complaint.)*

- C. Only litigants alleging age discrimination must answer this question.

Since filing my charge of age discrimination with the Equal Employment Opportunity Commission regarding the defendant's alleged discriminatory conduct *(check one)*:

- ☒ 60 days or more have elapsed.  
☐ less than 60 days have elapsed.

**V. Relief**

State briefly and precisely what damages or other relief the plaintiff asks the court to order. Do not make legal arguments. Include any basis for claiming that the wrongs alleged are continuing at the present time. Include the amounts of any actual damages claimed for the acts alleged and the basis for these amounts. Include any punitive or exemplary damages claimed, the amounts, and the reasons you claim you are entitled to actual or punitive money damages.

promotion, 300,000

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**VI. Certification and Closing**

Under Federal Rule of Civil Procedure 11, by signing below, I certify to the best of my knowledge, information, and belief that this complaint: (1) is not being presented for an improper purpose, such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation; (2) is supported by existing law or by a nonfrivolous argument for extending, modifying, or reversing existing law; (3) the factual contentions have evidentiary support or, if specifically so identified, will likely have evidentiary support after a reasonable opportunity for further investigation or discovery; and (4) the complaint otherwise complies with the requirements of Rule 11.

**A. For Parties Without an Attorney**

I agree to provide the Clerk's Office with any changes to my address where case-related papers may be served. I understand that my failure to keep a current address on file with the Clerk's Office may result in the dismissal of my case.

Date of signing: June 20, 2023

Signature of Plaintiff

Printed Name of Plaintiff Johnny Allen

Address: 212 Transom Court, Gaston SC 29053

Phone number: 803-261-2268

**B. For Attorneys**

Date of signing: \_\_\_\_\_, 20\_\_.

Signature of Attorney \_\_\_\_\_

Printed Name of Attorney \_\_\_\_\_

Bar Number

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Name of Law Firm

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Address

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Telephone Number

---

E-mail Address

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South Carolina <sup>SC USA</sup> DRIVER'S LICENSE <sup>DL</sup>

NOT FOR FEDERAL IDENTIFICATION

4d DL#: 002527692

1 ALLEN  
2 JOHNNY EARL  
8 212 TRANSOM CT  
GASTON SC 290539272

3 DOB: 02/16/1956  
4a Issued: 02/01/2016  
4b Expires: 02/16/2026

15 Sex: M 16 Hgt: 5'-09"  
17 Wgt: 180 lb 18 Eyes: GRN  
9 Class: D 9a End: None  
12 Restrictions: None

DD 3200550302310846611

*John Allen*  
Governor